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(1994) 11 SC CK 0096

Supreme Court of India

Case No: Civil Appeal No. 3920 Of 1984

Dy. Commissioner of Sales Tax (Law)		APPELLANT
	Vs	
Chirakkara Rice and Flour Mills		RESPONDENT

Date of Decision: Nov. 9, 1994

Citation: (1995) 3 SCC 143 Supp

Hon'ble Judges: S. B. Majmudar, J; N. P. Singh, J; B.P. Jeevan Reddy, J

Bench: Full Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Item 10 in the Second Schedule to the Kerala General Sales Tax Act reads thus:

"10. Cereals, that is to say, paddy, rice, wheat, jowar, or milo, bajra, maize, ragi, kodon, kutki and barley. Explanation.- Where a tax has been levied in respect of paddy, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy. * * *"

The Explanation to Item 10 says that where tax has been levied in respect of paddy, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy. The Kerala High court has, however, taken the view that it is not necessary to establish that tax was levied on paddy and it is enough to show that tax on paddy was leviable for claiming the benefit of the Explanation. We do not think that the said view can be sustained on the plain and clear language of the Explanation. The Explanation says that where the tax has been levied, such amount levied shall be deducted out of the tax payable on rice procured out of such paddy. In this view of the matter, the appeal is allowed and the judgment of the High court is set aside. The assessing authorities concerned shall examine the liability of the goods in question in the

light of the above.

2. No costs.